

FCC MAIL SECTION

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FCC 99M-64  
90725

DISPATCHED BY

In re Applications of	)	MM DOCKET NO. 99-153
	)	
READING BROADCASTING, INC.	)	File No. BRCT-940407KF
	)	
For Renewal of License of	)	
Station WTVE(TV), Channel 51	)	
Reading, Pennsylvania	)	
	)	
and	)	
	)	
ADAMS COMMUNICATIONS CORPORATION	)	File No. BPCT-940630KG
	)	
For Construction Permit for a New	)	
Television Station to Operate on	)	
Channel 51, Reading, Pennsylvania	)	

**O R D E R**

Issued: October 21, 1999

; Released: October 25, 1999

On October 12, 1999, Reading Broadcasting, Inc. ("Reading") filed an Opposition to Notice by Adams of Deposition Upon Oral Examination. Adams Communications Corporation ("Adams") filed a Reply to Reading's Opposition on October 20, 1999 .

The Objection is directed against the Notice of Deposition that was served by Adams on Mr. Thomas L. Root ("Root"). Reading argues that Mr. Root: (1) had no connection with Reading during the renewal period (August 1, 1989 to July 31, 1994); (2) was engaged as an independent contractor from July 1995, through July 31, 1996; (3) was employed on August 1, 1996 as special assistant to the president Micheal Parker; and (4) is not and has not been an officer or director of Reading.

Mr. Root's duties as independent contractor for Reading included "services such as drafting business plans for construction of a new tower, reviewing station contracts for compliance purposes, and developing a database of cable television systems for must-carry notifications." As a Reading employee in the capacity of special assistant to the president, Mr. Root "performs tasks assigned to him by Mike Parker by me [Frank McCracken] and, from time to time, by Jack Linton [and Root's duties] have included maintaining stock ownership records for RBI, drafting documents for use by management and monitoring contract compliance for RBI." See Declaration of Frank McCracken, General Manager

of WTVE(TV), dated September 13, 1999.<sup>1</sup> But there is no definitive description of the universe of the work that may be assigned to Mr. Root. There are only "such as" descriptions which do not go far enough to determine the scope of duties and corresponding authority of Mr. Root, particularly in his capacity as special assistant to the president, Micheal Parker.

It is argued in the Opposition that Mr. Root neither had nor has "any decision-making authority with regard to programming, management and/or operations at station WTVE or Reading." But according to the Adams Reply pleading, it was learned in a deposition of Mr. Parker that "station management could call on Mr. Root directly, apparently without prior approval from Mr. Parker." If that is substantially so, Mr. Root may be in a position of influence in giving advice or instructions to station management.<sup>2</sup> The scope of Mr. Root's authority cannot be determined simply from the pleadings and papers.

Mr. Root also has some control over the issuance and cancellation of stock certificates. Assignment to him of the supervision and control over a non-public company's stock certificates can carry influence over corporate affairs, and particularly corporate control which has been a matter of concern at Reading. In view of Mr. Root's experience in corporate formations, it is reasonable to ask him in a deposition whether as special assistant to the president (which implies more than clerical duties) he does more than act as custodian for the company's stock ledger.

The rules provide for discovery by deposition regarding any matter that is not privileged which is relevant to the hearing issues and that appears reasonably calculated to lead to the discovery of admissible evidence. 47 C.F.R. §1.311(b). Since Mr. Root is a Reading employee who is knowledgeable of Mr. Parker's broadcast activities, advises him and others as special assistant on a potentially broad range of matters relating to broadcasting, has experience in the stucture and control of business entities, and has first-hand knowledge of the ownership of Reading, there has been a sufficient showing of discovery relevancy to permit the deposition to go forward.

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<sup>1</sup> There also is a Declaration of Jack A. Linton (undated) in which Mr. Linton, a Reading director engaged in the practice of law, has monitored Mr. Root's actions at Reading to assure Mr. Root is not giving legal advice or services.

<sup>2</sup> Cf. The Petroleum V. Nasby Corporation, 8 F.C.C. Rcd 4135, 4136 (1993), concerned with Mr. Root's "potential to influence or control the operation of a station", a broader standard than working control exercised by a corporate officer or minority shareholder. There are sufficient grounds here to inquire into the "potential influence" of Mr. Root which is a different question than adding an issue for a poor broadcast record based on the presently known facts of Mr. Root's connection with Reading. Compare Memorandum Opinion and Order FCC 99M-60, released October 15, 1999 at 8.

Accordingly, IT IS ORDERED that the Opposition to the deposition of Thomas L. Root IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION<sup>3</sup>

A handwritten signature in black ink, reading "Richard L. Sippel". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Richard L. Sippel  
Administrative Law Judge

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<sup>3</sup> Copies of this Order were faxed or e-mailed to counsel on date of issuance.